

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Trustees of the Ohio Bricklayers
Pension Fund, et al.,

Plaintiffs,

v.

Case No. 1:07-CV-923

Susan Atkinson, d/b/a
Atkinson Masonry, et al.,

Defendants

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed March 31, 2008 (Doc. No. 20).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, we find the Magistrate Judge's Report and Recommendation correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Plaintiffs' motion for default judgment (Doc. No. 10) is well-taken and is **GRANTED**.

It is hereby **ORDERED, ADJUDGED AND DECREED** that judgment is entered against Defendants and for Plaintiffs as follows:

- 1) \$2,580.00, the known amount for fringe benefit contributions for October 2007 to the Ohio Bricklayers Pension Fund and the Ohio Bricklayers Health and Welfare Fund;
- 2) A known amount of \$1,827.44 for liquidated damages for late payments for the period of January 2007 through November 2007;
- 3) The Defendants shall make all of their books and records for the period of January 2005 through the present available for inspection upon the request of the Funds' auditor so that Plaintiffs may determine the amount of damages due them;
- 4) An amount to be determined by the payroll audit for delinquent fringe benefit contributions with interest in the amount of one and one-half percent (1.5%) per calendar month on the unpaid contributions and liquidated damages in the amount of ten percent (10%) of the unpaid contributions;
- 5) The amount of \$4,652.43, Plaintiffs' reasonable attorney fees and the costs of this action;
- 6) The cost of the payroll audit to be performed by the Fund's auditor;

for a total of \$9,059.87. Interest shall accrue at the rate found in 28 U.S.C. § 1961 which is 2.98% per annum from the date of this judgment.

IT IS FURTHER ORDERED that Defendants shall within thirty days of receipt of this Order fully cooperate with the Plaintiffs' auditor and make available for inspection at the Fund Office at Stoner & Associates, 205 W. Fourth Street, Suite 225, Cincinnati, OH 45202, all of their books and records and other information necessary for the completion of such an audit and for a calculation of delinquent fringe benefit contributions with interest in the amount of one and one-half percent (1.5%) per calendar month on the unpaid contributions and liquidated damages in the amount of ten percent (10%) of the unpaid contributions which are due and owing Plaintiffs for the period of January 2005 through the present. Defendants shall also cooperate with Plaintiffs in regards to whatever other discovery is deemed necessary in this case to calculation of any and all damages due and owing Plaintiffs.

IT IS FURTHER ORDERED that after Plaintiffs have completed their review of Defendants' books and records and whatever other discovery deemed necessary in this case, Plaintiffs will submit to this Court proof of their additional damages at which time, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure this Court will determine whether to conduct a hearing before entering a judgment for additional damages against the Defendants.

Date: April 24, 2008

s/Sandra S. Beckwith
Sandra S. Beckwith, Chief Judge
United States District Court